

BEFORE THE
TENNESSEE STATE BOARD OF EQUALIZATION

In Re: Ray R. & Mary S. Brunson
District B1, Block 48D, Parcel E20
Residential Property
Tax year 2005

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Shelby County

INITIAL DECISION AND ORDER

Statement of the Case

The Shelby County Board of Equalization has valued the subject property for tax purposes as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$37,000	\$161,900	\$198,900	\$49,725

On November 17, 2005, the State Board of Equalization received an appeal by the property owners.

The undersigned administrative judge conducted a hearing of this matter on February 21, 2006 in Memphis. The appellants, Ray R. and Mary S. Brunson, represented themselves at the hearing. Staff appraiser Teri Brandon appeared on behalf of the Shelby County Assessor of Property.

Findings of Fact and Conclusions of Law

The property in question is a 1.5-story brick dwelling at 6393 Daybreak Drive, across from the Quail Ridge Country Club in Bartlett. Built in 1995, this home includes approximately 2,400 square feet of living area and a two-car attached garage. The appellants purchased this property in 1996 for \$159,500. In a “desktop” appraisal report apparently commissioned for refinancing purposes, state-certified real estate appraiser Randy M. Stark estimated the market value of such property as of October 9, 2002 to be \$185,000 – the value sought by the owners in this appeal.

Attached to the appeal form were descriptions of several residences in the immediate vicinity of the subject that sold in 2005 at prices ranging from \$168,000 to \$180,000. At the hearing, Mr. and Mr. Brunson asserted that a drainage problem and the relatively heavy traffic on Daybreak Drive detracted from the value of their home. Further, the appellants complained that the \$21,000 increase in the valuation of the subject property as a result of the 2005 reappraisal was disproportionately high.

The Assessor’s representative maintained that the property under review has been fairly appraised at \$198,900. While acknowledging that the properties selected in her comparative sales analysis were located on quieter streets, Ms. Brandon pointed to some other recent sales on Daybreak Drive as indicators of a viable residential real estate there as well.

Tenn. Code Ann. section 67-5-601(a) provides (in relevant part) that “[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values....”

Since the appellants seek to change the present valuation of the subject property, they have the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(1).

The effective date of Mr. Stark’s appraisal report was over two years *before* the January 1, 2005 reappraisal date; and the most recent of the comparable sales cited in his report occurred in March, 2002. Given the constant changes in factors affecting the value of real property, the administrative judge cannot accord substantial evidentiary weight to Mr. Stark’s desktop appraisal here. Moreover, since the appraiser was not called to testify at the hearing, his opinion of value must be discounted as *hearsay*.¹

Unfortunately, all of the sales diligently researched by the appellants occurred *after* the January 1, 2005 assessment date. In Acme Boot Company & Ashland City Industrial Corporation (Cheatham County, Tax Year 1989, Final Decision and Order, August 7, 1990), the Assessment Appeals Commission held that “[e]vents occurring after that date are not relevant unless offered for the limited purpose of showing that assumptions reasonably made on or before the assessment date have been borne out by subsequent events.”

The Assessment Appeals Commission has also consistently declared that the amount or percentage of change in the appraisal of a property has no bearing on a determination of the accuracy of the present value. See, e.g., E. B. Kissell, Jr. (Shelby County, Tax Years 1991 and 1992, Final Decision and Order, June 29, 1993). It is axiomatic that even properties in the same neighborhood may appreciate or depreciate at significantly different rates depending on their individual characteristics.

Respectfully, for these reasons, the administrative judge must affirm the value determined by the county board of equalization.

Order

It is, therefore, ORDERED that the following values be adopted for tax year 2005:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$37,000	\$161,900	\$198,900	\$49,725

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of

¹*Hearsay* is defined in Tenn. R. Evid. 801(c) as “a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.”

the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

- 2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 10th day of March, 2006.

PETE LOESCH
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

cc: Ray R. & Mary S. Brunson
Tameaka Stanton-Riley, Appeals Manager, Shelby County Assessor's Office
Rita Clark, Assessor of Property